

## **REMARKS**

By this amendment, the specification has been amended. Claims 1-21 have been amended. Claims 1-21 remain in the application. Support for the amendments can be found the specification and drawings (as shown in FIGs. 1-2). No new matter has been added. This application has been carefully considered in connection with the Examiner's Action. Reconsideration, and allowance of the application, as amended, is requested.

### **Objection to the Abstract**

The abstract of the disclosure was objected to as not being compliant with U.S. format. By this response, the abstract has been amended to render the same in compliance with U.S. format. Withdrawal of the objection to the abstract is respectfully requested.

### **Objection to the Specification**

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. In claim 2, "time-independent user preferences" had not been defined in the specification. By this response, the specification has been amended to include the language of the claims as originally filed in the detailed description and, more particularly, in the paragraph on page 4, lines 3-15 to define "time-independent user preferences." Withdrawal of the objection is respectfully requested.

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. In claim 3, "event-independent" had not been defined in the specification. By this response, the specification has been amended to include the language of the claims as originally filed in the detailed description and, more particularly, in the paragraph on page 4, lines 3-15 to define "event-independent." Withdrawal of the objection to the specification is respectfully requested.

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. In claims 6 and 10, "based on a third set", "a third subset" and "identified in the third subset" had not been defined in the specification. By this response, the specification has been amended to include the language of the claims as originally filed in the detailed description and, more particularly, in the paragraph on page 7, lines 22-31 to define "based on a third set", "a third subset" and "identified in the third subset." Withdrawal of the objection is respectfully requested.

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. In claim 7, "searching the source of material based on a frequency of access of the items", the terminology "frequency" had not been disclosed in the specification. By this response, the specification has been amended to include the language of the claims as originally filed in the detailed description and, more particularly, in the paragraph on page 6, lines 1-7 to define "frequency." Withdrawal of the objection to the specification is respectfully requested.

### **Objection to the Claims**

Claim 1 was objected to because of the following informalities: Claim 1 recites "a second selector that is configured to ... provide therefrom a second subset ... within the source of material that facilitates subsequent rendering ..." By this response, claim 1 has been amended to more clearly articulate the second selector device features of the claim. Withdrawal of the objection to claim 1 is respectfully requested.

Claim 2 was objected to because of the following informalities: Claim 2 recites "time-independent user preferences." However, the term has not been defined in the specification. Appropriate correction is required. By this response, the specification has been amended in the paragraph on page 4, lines 3-15 to define "time-independent user

preferences” as noted herein above. Accordingly, the objection to claim 2 is now believed overcome. Withdrawal of the objection respectfully requested.

Claim 3 was objected to because of the following informalities: Claim 3 recites "event-independent." However, the term has not been defined in the specification. Appropriate correction is required. By this response, the specification has been amended in the paragraph on page 4, lines 3-15 to define “event-independent user preferences” as noted herein above. Accordingly, the objection to claim 3 is now believed overcome. Withdrawal of the objection respectfully requested.

Claim 4 was objected to because of the following informalities: Claim 4 recites the terms "general user preferences" and "specific user preference" The above claimed limitations are vague and unclear, thus leaving the reader in doubt as to the meaning of the technical features to which they refer. Appropriate correction is required. By this response, claim 4 has been amended to clarify the “parameters” corresponding to “general user preferences” and “specific user preference.” Accordingly, the objection to claim 4 is now believed overcome. Withdrawal of the objection respectfully requested.

Claims 6 and 10 were objected to because of the following informalities: Claims 6 and 10 recite "based on a third set", "a third subset" and "identified in the third subset". However, examiner is unable to find support for the above limitation in the Specification. Appropriate correction is required. By this response, the specification has been amended to include the language of claims 6 and 10 in the detailed description and, more particularly, in the paragraph on page 7, lines 22-31 to define “based on a third set”, “a third subset” and “identified in the third subset.” Withdrawal of the objection to claims 6 and 10 is respectfully requested.

Claim 7 was objected to because of the following informalities: Claim 7 recites "searching the source of material based on a frequency of access of the items." However, the terminology "frequency" has not been used in the Specification. Appropriate correction is required. By this response, the specification has been amended to include the language of claim 7 in the detailed description and, more particularly, in the paragraph on page 6, lines 1-7 to define "frequency." Withdrawal of the objection to claim 7 is respectfully requested.

Claim 18 was objected to because of the following informalities: Claim 18 recites the term "substantially time-invariant user preferences" The above claimed limitation is vague and unclear, thus leaving the reader in doubt as to the meaning of the technical features to which they refer. Appropriate correction is required. By this response, claim 18 has been amended to clarify the "parameters" corresponding to "substantially time-invariant user preferences." Accordingly, the objection to claim 18 is now believed overcome. Withdrawal of the objection respectfully requested.

### **Rejection under 35 U.S.C. §101**

Claims 1-21 were rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. By this response, claims 1-21 have been amended, and as presented, are directed to a playlist generator apparatus (claims 1-10), a system that includes a playlist generator apparatus (claims 11-16), and a method of generating a playlist for use by a rendering device (claims 17-21). Claims 1-10 and 11-16 now more clearly recite those physical objects that constitute the playlist generator apparatus and system, respectively. Claims 17-21 now more clearly recite those physical objects used to constitute the method. Accordingly, the rejection is now believed overcome. Withdrawal of the rejection is respectfully requested.

**Rejection under 35 U.S.C. §102**

Claim 1 recites a playlist generator apparatus comprising:

a first selector device that is configured to access and search at least one database source of material and to provide therefrom a first subset of identifications of items within the at least one database source of material at a first hierarchical level, based on a first set of parameters corresponding to a first set of user preferences, further wherein the first selector device is configured to access and search available database sources of material on a periodic basis to maintain the first subset of identifications of items up to date, and

a second selector device operatively coupled to the first selector device, wherein the second selector device is configured to search the first subset of identifications at a subsequent hierarchical level based on a second set of parameters corresponding to a second set of user preferences, and to provide therefrom a second subset of identifications of items within the database source of material, wherein the second subset corresponds to a playlist that is adapted for use by a rendering device for a subsequent rendering of the items identified in the second subset.

Support for the amendments to claim 1 (as well as for claims 11 and 17) can be found in the specification at least on page 3, lines 27-31; page 6, line 13; page 7, lines 22-31; and Figures 1 and 2.

Claims 1-5, 11-13, 17 and 18 were rejected under 35 U.S.C. §102(e) as being anticipated by Hoch (U.S. Pub. No. US 2003/0191753 A1), hereinafter **Hoch**. With respect to claim 1, as now presented, Applicant respectfully traverses this rejection for at least the following reasons.

The PTO provides in MPEP § 2131 that

*"[t]o anticipate a claim, the reference must teach every element of the claim...."*

Therefore, with respect to claim 1, to sustain this rejection the **Hoch** reference must contain all of the above claimed elements of the respective claims. However,

contrary to the examiner's position that all elements are disclosed in the **Hoch** reference, the latter reference does not disclose a "...a *first selector device* ... to provide ... a *first subset* of identifications of items within the ... database source of material at a *first hierarchical level*, based on a *first set of parameters* corresponding to a *first set of user preferences*, further ... on a *periodic basis* to *maintain* the *first subset* ... up to date, **and** a *second selector device* operatively coupled to the *first selector device* ... configured to search the *first subset* ... at a *subsequent hierarchical level* based on a *second set of parameters* corresponding to a *second set of user preferences*, and to provide ... a *second subset* of identifications of items ... [that] ... corresponds to a *playlist* ... adapted for use by a *rendering device* for a *subsequent rendering* of the items identified in the second subset" as is claimed in claim 1. Therefore, the rejection is not supported by the **Hoch** reference and should be withdrawn.

Accordingly, claim 1 is allowable and an early formal notice thereof is requested. Claims 2-5 depend from and further limit independent claim 1 and therefore are allowable as well. Accordingly, the 35 U.S.C. §102(e) rejection thereof has now been overcome. Withdrawal of the rejection is requested.

Independent claim 11 has been amended herein to include limitations similar to those of claim 1. Accordingly, claim 11 is believed allowable for at least the same reasons as presented herein above with respect to overcoming the rejection of claim 1, and an early formal notice thereof is requested. Claims 12 and 13 depend from and further limit independent claim 11 and therefore are allowable as well. Accordingly, the 35 U.S.C. §102(e) rejection thereof has now been overcome. Withdrawal of the rejection is requested.

Independent claim 17 has been amended herein to include limitations similar to those of claim 1. Accordingly, claim 17 is believed allowable for at least the same reasons as presented herein above with respect to overcoming the rejection of claim 1, and an early formal notice thereof is requested. Claim 18 depends from and further limits independent claim 17 and therefore is allowable as well. Accordingly, the 35 U.S.C. §102(e) rejection thereof has now been overcome. Withdrawal of the rejection is requested.

### **Rejection under 35 U.S.C. §103**

Claims 6, 14 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Hoch** as applied to claims 1, 11 and 17 above, in view of Salam et al. (U.S. Patent No. U.S. 6,594,654, hereinafter, **Salam**). Applicant respectfully traverses this rejection for at least the following reason. Claim 6 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Claim 14 depends from and further limits allowable independent claim 11 and therefore is allowable as well. Claim 21 depends from and further limits allowable independent claim 17 and therefore is allowable as well. Accordingly, the 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is requested.

Claims 7-9, 15, 16, 19 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Hoch** as applied to claims 1, 11 and 17 above, in view of Breese et al. (U.S. Patent No. U.S. 6,006, 218, hereinafter, **Breese**). Applicant respectfully traverses this rejection for at least the following reason. Claims 7-9 depend from and further limit allowable independent claim 1 and therefore are allowable as well. Claims 15 and 16 depend from and further limit allowable independent claim 11 and therefore are allowable as well. Claims 19 and 20 depend from and further limit allowable independent claim 17 and therefore are allowable as well. Accordingly, the 35 U.S.C.

§103(a) rejection thereof has now been overcome. Withdrawal of the rejection is requested.

Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over **Hoch**, in view of **Breese**, as applied to claim 7 above, and further in view of **Salam**. Applicant respectfully traverses this rejection for at least the following reason. Claim 10 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Accordingly, the 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is requested.

### **Conclusion**

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application.

It is clear from all of the foregoing that independent claims 1, 11 and 17 are in condition for allowance. Dependent claims 2-10 depend from and further limit independent claim 1 and therefore are allowable as well. Dependent claims 12-16 depend from and further limit independent claim 11 and therefore are allowable as well. Dependent claims 18-21 depend from and further limit independent claim 17 and therefore are allowable as well.



The amendments herein are fully supported by the original specification and drawings; therefore, no new matter is introduced. An early formal notice of allowance of claims 1-21 is requested.

Respectfully submitted,

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